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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 428th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 12 May 2000, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.428/Add.1.

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Initial report of Slovenia (CAT/C/24/Add.5; annexed document without symbol distributed during the meeting in English only)

1. At the invitation of the Chairman, Mr. Zore, Mr. Korošec, Mr. Mikša Mr. Klemenčič, Mr. Hočevar and Mr. Zidar (Slovenia) took places at the Committee table.

2. The CHAIRMAN invited the delegation of Slovenia to present that country's initial report (CAT/C/24/Add.5).

3. Mr. ZORE (Slovenia) expressed his regret that the initial report of Slovenia, which had been due in 1994, was being submitted to the Committee several years late. However, after gaining independence in June 1991, Slovenia had had to concentrate on organizing its public administration and ensuring the process of transition to democracy and a market economy. It had also been in the process of remodelling its institutions in conformity with the regulations of the European Union, of which it was an associate member.

4. The report, which had been written at the Government's request by an independent institution - the Institute of Criminology of the Faculty of Law of the University of Ljubljana - and supplemented by the relevant ministries and government agencies, gave exhaustive coverage of all legislative and other measures adopted recently. In that connection, he emphasized Slovenia's commitment to respect for and promotion of human rights in general and to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment in particular. He said that his country was a party to the major international human rights instruments and to the European Convention on Human Rights and the European Convention for the Prevention of Torture. Furthermore, Slovenia was in the process of ratification of the Statute of the International Criminal Court, and had signed the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

5. In order to combat torture at the international level, Slovenia had decided to contribute on a continuous basis to the United Nations Voluntary Fund for the Victims of Torture through the Voluntary Fund for Technical Cooperation in the Field of Human Rights. To combat torture at the domestic level, Slovenia had included several provisions in its Constitution aimed at prohibiting and preventing torture and ill-treatment, in particular with regard to criminal procedure, under article 18 which prohibited torture and other cruel, inhuman or degrading treatment or punishment, and other provisions which protected the right to legal remedies and to compensation.

6. Given the significant changes in Slovene legislation since the initial report had been drawn up, Slovenia had very recently submitted to the Committee an annex setting out new legislation covering the period from March 1998 to May 2000. He highlighted its main points. Slovenia had promulgated a new law on the enforcement of criminal sanctions, which included a definition of acts of torture which closely resembled that of the Convention and gave convicted

persons who claimed to be victims of acts of torture while serving prison sentences the possibility of requesting judicial protection. Slovenia had also adopted a law amending the Criminal Procedure Act, which limited recourse to pre-trial detention and provided the courts with options where the accused would not be under direct control and custody of State authorities during criminal proceedings. The amendments introduced a number of alternative measures to detention such as injunction orders, reporting to police stations, and house detention. The amendments also made ex officio legal representation mandatory during questioning by an investigating judge during the proceedings where pre-trial detention or release was determined, and throughout the period of detention.

7. Slovenia had also adopted a new Police Act which radically redefined the organization, administration, competence and powers of the police, particularly with regard to deprivation of liberty. The Act introduced safeguards concerning all forms of police-related deprivation of liberty and a Bureau of Management and Supervision of the police had been established to carry out systematic oversight of the conduct of members of the police force. Lastly, very important regulations had been promulgated in 1999 and 2000 concerning implementation of the new Police Act, notably the regulation of police powers and the Code of Police Practice which defined police powers in great detail.

8. The CHAIRMAN thanked the representative of Slovenia for his presentation of a particularly thorough initial report, whose compilation, as had been emphasized, had been entrusted to an independent body, which was an innovative and praiseworthy approach. He invited members of the Committee to put questions to the Slovene delegation.

9. Mr. YAKOVLEV (Rapporteur for Slovenia) praised the quality of the initial report submitted by Slovenia, which was supplemented by a very interesting annex covering the most recent period. He was aware that the report dealt with a difficult period in Slovenia's recent history, in that the country had virtually had to rebuild itself since it had gained independence. The country had achieved impressive results in the process of social transformation upon which it had embarked and was making steady progress towards the establishment of an advanced democracy. However, that process was not without some difficulties, which would have to be taken into account when considering implementation of the Convention.

10. With regard to the definition of torture in article 1 of the Convention, it was stated in the report (para. 34) that it had not been literally incorporated into Slovenia's domestic legislation. On the other hand, he had read with satisfaction (paras. 27 and 30) that the international instruments ratified by the State party could be incorporated in domestic law through appropriate normative procedures, adding to positive criminal law whatever sanctions and penalties were required to give full effect to the Convention. However, he noted that in spite of those possibilities the State party had still not incorporated the definition of torture in its domestic law as such, but in an indirect manner which weakened its scope. Slovenia seemed therefore to consider that the penalties currently laid down in the Criminal Code for abuses of power committed by State officials who inflicted acute physical or mental suffering impaired the physical integrity of persons or inflicted serious bodily harm, were sufficient to give full effect to the Convention. Unfortunately, that was to disregard the fact that torture was a very special act, which therefore needed a very specific definition and special penal provisions.

11. Nevertheless, he noted with satisfaction that in that respect the situation had developed in a favourable direction since the initial report had been drawn up, for in the annex it was stated that a definition of torture close to that of the Convention had recently been incorporated in the domestic legislation of Slovenia through the law of 23 February 2000 on the enforcement of criminal sanctions. It was regrettable that the definition, which was excellent, was not an integral part of criminal law proper, for it appeared only in a legislative text of implementation, which certainly limited its scope and authority. Although the new law definitely provided protection for persons serving criminal sentences, it still did not guarantee the direct applicability of the Convention in Slovenia. To remedy that shortcoming, Slovenia should, for example, pass a specific law and establish appropriate jurisdiction to have an effective and complete legal mechanism (including procedures for filing complaints and referrals, investigation, prosecution and sentencing) to punish all acts of torture and give full effect to the Convention.

12. He was also concerned about the inadequate protection given to certain ethnic groups, particularly the Roma, against acts of torture committed by the police, and by the fact that the bias shown by police officers seemed in part to be linked to cultural prejudices. However, he regarded it as positive and encouraging that the Slovene Government acknowledged the problems that had arisen in that regard, and welcomed the vigorous action of inspection, investigation and protection on the part of the Human Rights Ombudsman (para. 178).

13. On the other hand, article 51 of the new Aliens Act, dated 14 August 1999, referred to in the annex, caused him some concern, insofar as it provided an exception to the rule whereby an alien could not be extradited to a country where he would be at risk of being tortured. The derogation provided for in the Act was inadmissible in law, even if the person concerned had been sentenced for a crime of exceptional gravity or appeared to represent a threat to national security. The notion underlying the exception - potential danger to national security - was also questionable in law, because it was based on the idea that dangerousness was linked to personality and not to acts committed.

14. Ms. GAER (Deputy Rapporteur for Slovenia) congratulated the delegation on the quality of the report, which contained a wealth of particularly interesting information. With regard to implementation of article 11, she welcomed the extended powers of inspection of places of detention granted to the Human Rights Ombudsman (para. 274) and noted with satisfaction that no complaint concerning the impartiality of the latter had been lodged. Nevertheless, she would like to have more information concerning the Ombudsman selection procedure. How large was the department he ran? How many inspection visits had he made and how many reports had he compiled?

15. The report stated (para. 306) that various ethnic groups, foreign persons, homosexual and transsexual persons and members of the Roma community were subjected to potential discriminatory treatment, and (para. 307) that the Roma were frequently among those who violated laws and regulations. She thought that in order to consider the situation with full knowledge of the facts it would be useful if the Committee had figures regarding the situation of such vulnerable groups. What percentage were they of those sentenced and detained? How many complaints had they lodged against the police and other State representatives?

16. With reference to article 13, she welcomed the copious information provided on the measures which the Government of Slovenia had taken to facilitate court procedures and noted, for example, that any detainee had the right to send the Ombudsman an initiative for the introduction of a procedure in a sealed envelope. However, she would like to have details regarding the possibility members of the Slovene armed forces had of filing a complaint without going through hierarchal channels and regarding the special service for the protection of the rights of individuals known as the VOX Service. She noted that the number of complaints that were lodged continued to increase, even though only 17 per cent of them were justified according to the Ministry of the Interior. It would be interesting to know how many complaints had been filed for violence between police officers and the most vulnerable groups of society. Also, as far as the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) were concerned, she asked whether the Slovene Government was already using electronic video recording equipment during interrogations. She would also like to know the reasons why the Slovene Government had described complaints lodged against the Government as "malicious".

17. Turning to implementation of article 16, she requested information concerning the considerable increase in the number of illegal entries into Slovenia in recent years. She would also like to have more information regarding sexual violence in prisons, the manner in which complaints on that subject were treated and about the sanctions that were applied, as well as on all measures taken to deal with prison overcrowding and on the type of psychiatric treatment administered in State-run establishments. Lastly, she welcomed the fact that a non-governmental organization had taken part in drawing up the report, and inquired about the degree of cooperation between that NGO and government authorities.

18. Mr. MAVROMMATIS congratulated the Slovene delegation on the wealth of information provided, even if that information was not always relevant to implementation of the Convention. He noted that the report and the basic document both contained useful information, but regretted the fact that the statistics went back to 1991. He also thought that it would be preferable to avoid giving a precise definition of "public official", to which reference was made in article 16 of the Convention, in order to retain the greatest degree of latitude in references to jurisprudence. He also asked whether the European Convention on Human Rights and Fundamental Freedoms was really integrated into the Constitution, as stated in paragraph 11 of the report. Finally, referring to paragraph 12 of report, he considered that it might be possible to "derogate" temporarily from human rights and fundamental freedoms guaranteed by the Constitution, but not to suspend them.

19. The CHAIRMAN said that the Committee would continue its consideration of the initial report of Slovenia at a future meeting.

The first (public) part of the meeting rose at 11.10 a.m.